

PREFACE

This Handbook on Recruitment and Employment of Foreign Workers is being drawn up to streamline recruitment procedures. It is also to make the responsibilities and authorities of various agencies in the Royal Government and employers and workers transparent.

Above all, the Handbook attempts to make the recruitment of foreign workers efficient and free of hassles that employers normally complain of.

BACKGROUND

Until the onset of development activities, most work in Bhutan was fully carried out by Bhutanese. As development work gathered momentum, the need for management, technical as well as manual labour increased and was met by employing large numbers of foreign workers. However, with more Bhutanese completing studies and training, today nearly all-managerial and administrative jobs are held by Bhutanese. Similarly, Bhutanese have also filled large numbers of technical positions.

With regard to manual labour, Bhutanese implemented major infrastructure development projects like Thimphu- Phuentsholing and Samdrup Jongkhar- Trashigang highways and the reconstruction of Tashichhodzong. However, due to the accelerating rate of development activities throughout the kingdom and the emergence of large projects such as Chukha, Tala and Kurichu Hydro Electric Projects the number of foreign workers, both skilled and un-skilled increased substantially. In the year 2000, the Lhengye Zhungtshog during its 20th Session approved the increase of ceiling of foreign workers within the country at any given time from 30,000 to 45,000 to meet the requirements of the three hydro projects. Other than the limited details in the Chathrim for Wage Rate, Recruitment Agencies and Workmen's Compensation, 1994 there is no other rules or regulations prescribing detailed procedures for the employers on the recruitment of foreign workers. **However, some chapters & sections of the Chathrim for Wage Rate, Recruitment Agencies and Workmen's Compensation, 1994 has been repealed by the Labour and Employment Act, 2007.** Therefore, the Department of Labour, Ministry of Labour and Human Resources (MoLHR) deemed it pertinent to prepare this Handbook on the procedure for recruitment and employment of foreign workers so as to provide a comprehensive guideline for both the employers and the foreign workers to fully comprehend their obligations and to abide by the procedures laid down without any confusion.

This Handbook on the Recruitment and Employment of Foreign Workers in the country is a compilation of all the procedures that were laid down in the Chathrim for Wage Rate, Recruitment Agencies and Workmen's Compensation 1994 and other directives received from the Royal Government since then. The Ministry of Labour and Human Resources hopes that this handbook proves to be helpful to both the employers and the foreign workers.

PART –I (General Information)

1. Who is a Foreign Worker?

A foreign worker is a person who is neither a citizen of Bhutan either by birth, registration or naturalization nor a resident of Bhutan, but a citizen of another country other than Bhutan and who is employed in Bhutan on a temporary basis.

2. How many foreign workers are allowed into the country?

The Royal Government has approved 30,000 foreign workers as the maximum ceiling till further notice. This is likely to be changed by the government from time to time depending on the economic activities, national security and supply of Bhutanese workforce who need to be provided with gainful employment. The various restrictions and limitations imposed on recruitment of workers must be understood from this context.

3. How many foreign workers am I entitled to?

a. If it is for execution of government project-

Amount (actual cost of contract) x 30% (labour cost) = X

$$\frac{X}{\text{Duration (No. of days)}} = Y$$

$$\frac{Y}{100 (\text{wage rate}) \times 2} = Z (\text{No. of foreign workers})$$

b. If it is for personal residential building construction

5-12 foreign workers will be allotted depending on the total square feet of construction as certified by an engineer.

c. If it is for construction of an institution such as school or commercial building such as shops and hotels or for the purpose of renting out

The employer is encouraged to contract out such construction to private construction companies in which case the company will be entitled to number of foreign workers as in the case of government projects. Should

you decide to execute the construction yourself you can do so with the maximum of 12 foreign workers you will be entitled to.

d. Foreign Workers for private house construction in rural areas

As per the Executive Order No. MoLHR/EOM/04/2009/715 dated April 24, 2009 of the Honorable Minister of the Ministry of Labour & Human Resources, the Ministry has decided to sanction foreign workers in rural areas under the following conditions:

1. Permit a maximum of five foreign workers for construction of private house in rural areas using only modern construction materials (RCC structures). Such building plans must invariably be approved by the concerned Dzongkhags authorities.
2. Within the above ceiling, the choice of what skills of foreign workers to import will be given to the concerned applicant, and the period for such workers shall not exceed 6 months.
3. In administration of foreign workers, employers and other agencies shall strictly abide by their respective rules and responsibilities.
4. This permission is valid for a period of 2 years only, i.e. from 1st May, 2009 to 30th April, 2011

4. For what category of foreign workers can I apply?

- a. Against any occupation for which Bhutanese are not available will be approved for recruitment and employment by the Labour Recruitment Committee.
- b. Permit to recruit foreign worker will not be approved if the category of workforce requested is locally available and the occupations are listed below.
- c. **Since Bhutanese with sufficient qualifications and skills are now available, the following occupations are closed to foreign workers since June 1, 2004.**
 - i. Accountant
 - ii. Typist/Clerk
 - iii. Computer Operator
 - iv. Light Vehicle Driver
 - v. Tour/Travel Guide

- vi. Childcare worker/Housekeeper
- vii. Messenger
- viii. Gardener
- ix. Tailor
- x. Office Assistant
- xi. Receptionist/Dispatcher
- xii. Telephone Operator
- xiii. Administrative & Personnel Manager
- xiv. Shop Salesperson
- xv. Waiter/Waitress
- xvi. Security Guard/Watchman/Caretaker
- xvii. Fitter/Plumber (except industrial fitter)
- xviii. Hairdresser
- xix. Sweeper
- xx. Cobbler
- xxi. Washer Man (Dhobhi)
- xxii. Electrician (will be considered on case to case basis)

5. Who can I recruit and employ as Foreign Workers?

- a. A foreigner who is above 18 years old only will be permitted for employment and will be issued with work permit.
- b. Only those who have no criminal records and also who had not left Bhutan during his/her earlier employment without information/permission of the employer.
- c. Be physically and mentally fit and free from any communicable diseases supported by medical fitness certificate issued by a professional medical practitioner of a hospital in Bhutan and Form BIII

6. Where do I apply for Foreign Workers?

You are required to apply online through Labour Net at Department of Labour's website www.molhr.gov.bt. For the following job categories, the employers are requested to route their applications compulsorily through the licensed Foreign Workers Recruitment Agencies:

- a. Concrete Worker
- b. Carpenter
- c. Mason
- d. Electrician (will be considered on case by case only)
- e. Plumber
- f. Unskilled Worker

- g. Rod Binder
- h. Mine Worker

7. Which are the government agencies involved in reviewing and approving the applications for Foreign Workers?

- The Ministry of Home and Cultural Affairs
- The Ministry of Labour & Human Resources
- The Ministry of Foreign Affairs
- Department of Labour
- Department of Immigration
- Regional Immigration Offices

8. How are the decisions made in approving applications for Work Permits?

Foreign Workers from India

- a. Corporations, private employers, projects (executed by both Bhutanese and Non-Bhutanese agencies) or [FWRAs](#) will apply online for approval to recruit and employ foreign workers to Department of Labour using the appropriate form. Applications must be submitted after filling up the correct details. The Department of Labour will determine whether Bhutanese workers are available to do the jobs against which foreign workers are requested and shall obtain undertakings from the employers for replacement of the foreign workers by Bhutanese workers if and when available and that the foreign worker will be repatriated on [expiry](#) of the [validity](#) of work permit.
- b. The Labour Recruitment Committee(LRC) of the Ministry of Labour and Human Resources will meet [twice a week](#) to review the cases that has been put up to the meeting for discussion.
- c. The LRC will make a decision on each case and accord approval online.
- d. The successful applicants will then have to process as per the procedures described in Section 11.

9. Foreign Workers from other Countries

Same procedures apply except that they will need visas in addition to work permits the procedures for which are described in Section 22.

10. WORK PERMIT

What is a work permit?

- a. It is a pass approved by the Department of Labour & issued by Department of Immigration to a foreigner permitting him/her to work in the Kingdom. A Work Permit will be issued for a maximum period of 12 months at a time and should be produced for inspection by the Labour and Immigration inspectors.
- b. The Work Permit will have information such as the foreign worker's Name, Work Permit Number, Activity, and Validity of the Permit, the occupation in which the foreign worker is permitted to work, as well as the Employer's Name and Address. The foreign worker is allowed to work for the employer at a specific work site and in the occupation as stated in the Work Permit **only**.

11. How do I apply for the Work Permit for Fresh Recruitment? What are the procedures for obtaining work permits?

- a. Any employer who wishes to employ foreign workers and **any licensed FWRAs wishing to recruit foreign workers for an employer** must apply for approval online at www.molhr.gov.bt/dol and click on the LabourNet link.
- b. The employer can register by clicking the link "Register for an account" and by filling up the details. **The licensed FWRAs must first login with their own username and password and then click on link "Register for an account" or login with the employers' username and password and then fill up the details.**
- c. The employer and **the FWRAs** must remember the user name & password. The system will not accept a different user name & password for extension/renewal and replacement of foreign workers' work permits.
- d. He/she can log in using the username and password used during registration.
- e. After logging into the system, the employer/**FWRAs** can fill up the appropriate application form by clicking on the "Application Form" link.
- f. The employer/**FWRAs** can choose more than one job category by clicking on the "Add more" link in the application form.
- g. The employer/**FWRAs** must ensure that the minimum wage **per person per month is indicated in the form.**

- h. The application will be rejected if the application form is not filled with correct details.
- i. The employer/[FWRAs](#) must note that while filling up the application form, if it is left idle for more than 10 seconds, the session will be terminated and incomplete application will be generated.
- j. The form should then be submitted online to the Department of Labour for approval.
- k. When an application form is submitted the system will automatically generate an “Application ID No.” **It is important to remember your Application ID No.**
- l. The Department of Labour will verify the application forms and if found correct accord approval based on existing policies, rules and regulations within a week. That case which requires more information, the Labour Officer will contact the employer/[FWRA](#) & inform accordingly. Those cases which require the consent of higher authorities will be put up to LRC meeting. **(Note: Please ensure that the contact address including telephone numbers and email addresses are correctly mentioned. If found to be incorrect on verification the application will be automatically rejected)**
- m. The status of the application is also conveyed online to the Department of Immigration or Regional Immigration Offices.
- n. The employer/[FWRA](#) can login with the username and password and check the status of the application (i.e. approved, rejected, submitted to LRC or Under Process).
- o. For those approved applications, the employer/[FWRA in the case of an enterprise](#) must report to the Regional Immigration Office (RIO) concerned to sign agreement with the RIO with the necessary documents as specified in the approval.
- p. If any of the required document(s) are missing the RIO will not process the work permit.
- q. After verifying the documents and if everything is found in order, an online biodata form will be filled by the officer/staff of the RIO concerned.
- r. A picture of foreign worker will be taken using a web camera.

- s. The work permit card will be printed & issued to the employer/**FWRAs** only after the work permit card fees of Nu. 200/- and a security deposit of Nu. 500/- per person are collected by the regional office.
- t. The employer/ **FWRAs** must ensure that the work permit card of foreign worker entering the country is produced to the Immigration Officer at the check post to validate the work permit by using barcode reader.

12. What documents are required for processing work permit in addition to the documents that are specified in the approval?

- a. Form 'B (II)' issued by Department of Immigration
- b. Medical Fitness Certificate
- c. Identification document (one of the following):
 - i. Passport
 - ii. Election/Voters Card
 - iii. Identity card issued by Central Government and State Government.

13. How do I apply for Extension/Renewals of Work Permit of Foreign Worker currently employed by me?

- a. For renewal of work permit, an additional fee of 100% would be levied for every extension. The 100% increase shall be based on the amount of fee charged for the preceding year and not on the initial amount of Nu. 200/-.
- b. The employer/**FWRAs** must apply online for the renewal of work permit **at least 15 days before the expiry date**. The employer will not be able to apply for renewal after the deadline i.e., 15 days before the expiry date. The system will automatically levy a fine of Nu. 3000/- along with a progressive fine of Nu. 100 per day per person on expiry of the work permit.
- c. After paying the fine the employer must repatriate the foreign worker and reapply as fresh if extension is required. **All required formalities and documents as fresh have to be completed and submitted.**
- d. After obtaining approval for extension/renewal of work permit from Department of Labour, the employer is required to process for new work permits for the foreign workers **before the expiry of the validity of the old work permits** with the concerned regional immigration office.
- e. The employer must also take along the required document(s) specified in the approval, if any.

- f. After the employer pays the card fee a valid work permit will be printed and the system will automatically update the new validity date.

14. What is the procedure for those foreign workers going on leave?

- a. The employer/FWRA must ensure that the work permit cards of those foreign workers going on leave are surrendered at the Immigration Check Points. The foreign worker will be given a receipt which will have to be produced on re-entering the country.
- b. The employer/FWRAs must ensure that the work permit card of the foreign worker is read at the check points on re entering the country.

15. What is the procedure for replacing a foreign worker?

- a. For replacement of foreign worker who has left the country before the expiry of the validity of the card, the employer/FWRAs must ensure that the work permit card of the foreign worker exiting the country is surrendered to the Immigration Officer at the check post through which he/she is exiting **and the Immigration Counter at Paro Airport** and also ensure the card is read by a bar code reader. The employer can then apply for replacement using the “Replacement Form”.
- b. While applying for replacement, the employer/FWRAs must ensure that he/she is using the same user name & password through which initial approval was obtained.

16. What is the procedure for those foreign workers leaving the country?

- a. The employer/FWRAs must ensure that the work permit card of the foreign worker exiting the country (repatriation) is surrendered at the check points **or the Immigration Counter at Paro Airport** by himself/herself or by his/her representative and ask for the **exit slip** through which he/she can claim for refund of security deposit.

17. What is the procedure in the event of a foreign worker absconding from the worksite ?

The employer should immediately report to the nearest Police Station and inform in writing to the FWRA if the foreign worker has been routed through the FWRA with a copy to the concerned Regional Immigration Office and the Ministry of Labour and Human Resources. If the foreign worker is employed directly then the employer must immediately report to the nearest police Station and inform in writing to the concerned Regional Immigration Office and the Ministry of Labour and Human Resources.

17. What are other types of Permits issued to Foreigners?

Entry Permit

What is an entry permit?

It is an entry pass issued to an Indian by the Regional Immigration Offices permitting him/her to enter the country. The entry permit is required to be presented to Immigration, Royal Bhutan Check Posts and to Immigration and Labour Inspectors during field inspection at regular intervals.

Who needs an entry permit?

Any Indian who wishes to enter Bhutan as a tourist or to meet any relatives or for any other specific purpose other than employment.

Who should apply for an entry permit?

The foreigner himself/herself should apply if the purpose of entry is for a tour or to meet a relative.

Where to apply for entry permit?

At the Regional Immigration Offices in Phuntsholing, Samtse, Gelephu, or Samdrupjongkhar.

Can a foreigner work on entry permit?

No. Entry permit is issued to enter the country for visits only. Entry permit cannot be used for employment purpose.

What are the procedures for obtaining an Entry Permit?

- The foreigner can apply to the Regional Immigration Office at the entry point at Phuntsholing, Samtse, Gelephu, or Samdrupjongkhar.
- Form B (II) is submitted to the Immigration Office at the entry points for obtaining entry permit.
- The Regional Immigration Offices issue Entry Permit for the approved duration, which is not more than 30 days for those holding Ordinary Passports & duration of not more than 90 days for those holding Official Passports.

The foreigner is then free to enter the country for the purpose specified and visit places other than the restricted areas. A special permit needs to be obtained to [visit](#) the restricted areas.

18. Processing for Visa for foreign workers from countries other than India.

What is a visa?

It is a permit issued by the Ministry of Foreign Affairs or Department of Immigration for entry into Bhutan which is required to be produced by the foreigner at the port of disembarkment.

19. How and where do I apply for a Visa?

- a. All procedures as in section 8(a) apply to those applying for Visa for a Foreigner to work in Bhutan
- b. The approval of Department of Labour will be conveyed to the Ministry of Foreign Affairs or to the Department of Immigration. However, the Ministry of Foreign Affairs and [the Department of Immigration](#) has the right to accept or reject the applications based on their own criteria.
- c. The foreigner approved for employment will be issued [Work Visa](#) by the Ministry of Foreign Affairs or [the Department of Immigration](#).
- d. The Worker will have to produce the following documents to the Immigration counter at the Paro Airport.
 - Valid Passport
 - Visa clearance of the Ministry of Foreign Affairs or [the Department of Immigration](#) for the applicant to enter Bhutan for Employment.
- e. The Immigration Officer at Paro Airport will approve entry visa for duration of 15 days which can be extended by Ministry of Foreign Affairs or the Department of immigration.
- f. The employer or the foreign worker will then have to process for work permit **within seven days** of arrival, the procedure for which is same as section 11.

20. Can the Work Permit Holder be transferred?

- a. [An employer is](#) not permitted to deploy [his/her](#) foreign workers to any subsidiary because it is a separate legal entity. The subsidiary has to apply for work permits separately for the foreign workers it intends to employ.

- b. **An employer** is also not permitted to transfer the services of **his/her** foreign workers to another employer or to another location other than the one specified in the work permit.
- 21. Under what circumstance can the Department of Immigration forfeit the security deposit?**
- a. If a foreign worker has absconded the work site or has not properly exited through the entry/exit points the security deposit of Nu. 500/- including interest accrued thereof is not refundable
 - b. If the worker has overstayed the work permit.

22. What shall **an employer do if the Permit is lost?**

An employer or his/her or your foreign worker must report to the nearest police station in writing with a copy to Department of Immigration on the loss of the work permit. The employer can then apply for a work permit replacement for the foreign worker on payment of Nu.200.

23. What are **the employer's obligations and responsibilities as an employer of foreign workers?**

During a foreign worker's employment in Bhutan, the employer is generally responsible for:

- a. Paying the foreign worker's salary/wages on the last day of the month.
- b. Arranging for the worker to be certified medically fit and free from contagious diseases and drug addiction by a professional medical practitioner when requested by the concerned authority.
- c. Ensuring that the worker does not engage in any form of employment other than that stated in the work permit
- d. Ensuring that the worker does not work for any other employer or engage in any form of free-lancing arrangements or self-employment.
- e. Providing the basic terms and conditions of employment
- f. Resolving all employment related disputes with the worker amicably
- g. Providing compensation as per laws, rules and regulations in case of accident or death

- h. Recruit only those who were not refused permits before and had not committed any offence or crime in or outside Bhutan
- i. Recruit only male (if it is for construction) and without family/ relatives (spouse and children only of foreign workers employed against regular and permanent posts will be permitted)
- j. Obtain approval to recruit and employ from the Department of Labour before the foreign worker(s) enter Bhutan.
- k. Abide by the policies, laws, rules and regulations of the Kingdom.
- l. Bear full responsibility for conduct of the foreign workers while in Bhutan or accept all penalties as per laws, rules and regulations.
- m. Report to the Regional Immigration Office concerned or the nearest police station in the event a foreign worker has left without his/her knowledge or the consent.
- n. Provide housing of reasonable condition to the foreign workers at his/her expense.
- o. Insure all foreign workers with an Insurance Company in Bhutan for accident, disability and death and provide copies of Insurance Certificates to the Ministry of Labour and Human Resources. (Optional for the time being)
- p. Notify the Ministry of Labour and Human Resources in the event the foreign worker(s)' employment is terminated before the expiry date of the work permit, or of the death or incapacitation of any foreign worker and thus he is no longer able to fulfill his employment obligations.
- q. Permit Employment Officers/Immigration Inspectors/Labour Inspectors to enter at any reasonable time, the premises and workplaces where foreign workers are located, to undertake inspection, to check validity of work permits and on the implementation of the enterprise's-training plan.
- r. Give preference to Bhutanese who seek jobs in the employer's organization. The employer will seek permission for extension of contract/employment duration of the foreign workers beyond the first year only if suitable Bhutanese are not available in which case the employer will provide explanations to the Department of Labour as and when asked.
- s. Make every reasonable effort to engage Bhutanese workers to replace foreign workers once their current work permits expire.

- t. Repatriate the foreign workers on completion of employment duration approved by Department of Labour with intimation to the concerned Authorities.
- u. Ensure that work permits are surrendered by all foreign workers at the end of their contracts or earlier if the contract is terminated, and further ensure that the foreign workers actually leave Bhutan.
- v. The employer/[FWRA](#) will be responsible for proper exit of foreign workers. The employer/[FWRA](#) must ensure that the officer at the check post or [Immigration Counter at Paro Airport](#) updates the record by reading the card with the barcode reader. If an employer/foreign worker fail to do this, the foreign worker will be treated as either still in the country illegally or has left the country without the permission of the employer and without completing the repatriation/exit formalities. If the employer/[FWRA](#) has not notified the Department of Immigration or the RIO concerned that his/her foreign worker has left without his/her permission the employer/[FWRA](#) will be liable for fine **minimum of Nu.3000.00** plus progressive penalty of Nu. 100 per day and the security deposit will be forfeited.
- w. The employer is encouraged to recruit foreign workers through licensed Foreign Workers Recruitment Agents and avoid recruitment through unlicensed Non-Bhutanese labour contractors who often create problems between the employer and workers. These labour contractors are also found making huge profits from the foreign workers' wages but do not pay any tax to the Royal Government of Bhutan.

Note: The obligations and responsibilities listed in b, h, i, j, k, m, t, u & v also applies to the licensed Foreign Workers Recruitment Agencies.

24. PROHIBITION RELATING TO EMPLOYMENT OF FOREIGN WORKERS WITHOUT PERMIT

No employer shall:

- a. Employ a foreign worker without a permit.
- b. Knowingly assist a person to employ a foreign worker without a permit.
- c. Terminate the service of a Bhutanese employee for the purpose of employing a [foreigner](#).

25. What are the penalties [an employer](#) is liable for in relation to a foreign worker?

- a. If an employer have brought in a foreigner without permit and employed him/her:
 - i. An employer will be liable for minimum imprisonment term of three years and the maximum term of less than five years or monetary penalty of Nu.108, 000.00 to 180, 000.00.
 - ii. The employer will also be responsible for making arrangements to repatriate the foreigner immediately
- b. If an employer is found to have employed a foreign worker beyond the validity of the work permit, he/she will be liable for a penalty of Nu. 3,000/- plus a progressive fine of Nu. 100/- per day per worker from the date of expiry of the validity of the work permit.
- c. **In addition,**
 - i. The employer will not be permitted to employ foreign workers until the penalty is paid and the invalid case is cleared by the Department of Immigration
 - ii. If the employer fails to abide by the decisions of the authorities concerned a charge sheet will be forwarded to the Court for legal proceedings.

26. EXIT PERMIT

What is an Exit Permit?

It is a permit issued by the Immigration Officers at the gates at the Bhutan-India International Border through which the foreign worker is exiting after completion of contract. However, this permit will be issued only upon repatriating the foreign worker & surrendering the card to the gates.

27. What is the purpose of obtaining Exit Permit?

The Exit Permit is required for processing refund of security deposit. It cannot be used for other purposes.

28. How do I process for Exit Permit?

The employer/FWRA after repatriating the foreign workers, can request the Immigration Officer In charge at the gate to issue the exit permit.

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